Supreme Court, U. S.
FILED
MAR 18 1977
MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1976

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Nos. 76-180, 76-183, 76-5193, 76-5200

---

HENRY SMITH, individually and as Administrator of the NEW YORK CITY HUMAN RESOURCES ADMINISTRATION; CAROL PARRY, individually and as Director of the NEW YORK CITY BUREAU OF CHILD WELFARE, and as Assistant Administrator of NEW YORK CITY SPECIAL SERVICES FOR CHILDREN; ADOLIN DALL, individually and as Director of the DIVISION OF INTER-AGENCY RELATIONSHIPS OF THE BUREAU OF CHILD WELFARE; JAMES P. O'NEIL, individually and as Executive Director of CATHOLIC GUARDIAN SOCIETY OF NEW YORK; BERNARD SHAPIRO, individually and as Executive Director of NEW YORK STATE BOARD OF SOCIAL WELFARE; ABE LAVINE, individually and as Commissioner of the NEW YORK STATE DEPARTMENT OF SOCIAL SERVICES; and JOSEPH D'ELIA, individually and as Commissioner of the NASSAU COUNTY DEPARTMENT OF SOCIAL SERVICES,

Appellants,

NAOMI RODRIGUEZ; MARY ROBINS; DOROTHY NELSON SHABAZZ; and LILLIAN COLLAZO, on behalf of themselves and all others similarly situated,

Appellants,

DANIELLE and ERIC GANDY; RAFAEL SERRANO; and CHERYL, PATRICIA, CYNTHIA and CATHLEEN WALLACE, on behalf of themselves and all others similarly situated,

Appellants,

-against-

ORGANIZATION OF FOSTER FAMILIES FOR EQUALITY AND REFORM; MADELINE SMITH; RALPH and CHRISTIANE E. GOLDBERG; and GEORGE and DOROTHY LHOTAN, on behalf of themselves and all others similarly situated,

Appellees.

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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# REPLY BRIEF OF APPELLANTS NAOMI RODRIGUEZ; MARY ROBINS; DOROTHY NELSON SHABAZZ; and LILLIAN COLLAZO

MARTTIE L. THOMPSON
Community Action for Legal Services, Inc.
Attorney for Appellants Rodriguez, Robins, Shabazz and Collazo
335 Broadway
New York, New York 10013
(212) 966-6600

Louise Gruner Gans
of Counsel

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Appellees.

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REPLY BRIEF FOR APPELLANTS
NAOMI RODRIGUEZ, ET AL.

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POINT I
FOSTER PARENTS SEEK AN INTOLERABLE EXPANSION OF THE STATE'S ROLE IN CHILD REARING AT THE EXPENSE OF FAMILIAL INTEGRITY AND PRIVACY

Children who are returning from foster care to their parents are not going to a child care institution, or to a mental hospital, or to a prison; neither are they remaining in a foster home in the uncertain "limbo" of foster care: they are returning home. Foster parents and the District Court treat these different settings as of equal importance and value: they are not. Neither is the power of the State the same when return of children to natural parents is involved.

When the State refuses to return a child, voluntarily placed in foster care, to his or her parents, the State acts not as a neutral arbiter, but as an enforcer of minimum standards of parental conduct toward children.* The rights of foster parents, which are dervied from a contract with the State, cannot be greater than the power of the State to deprive parents of their children. A foster home, in this setting, is not "a private neighborhood residence. It is an institution that is licensed to operate and is fully regulated by the State." Ramos v. Montgomery 313 F. Supp. 1179 (1183), (S.D. Cal. 1970) aff'd mem. 400 U.S. 1003 (1971). The hearing mandated by the District Court is not a private dispute between parents and foster parents. It is a hearing in which the State will exercise its limited power to deprive parents of their right to the immediate care and companionship of their children.

*"Legal standards for private dispute settlement guide judicial resolution of a private controversy. In this instance authoritative resolution does not in itself expand the State's role with regard to child rearing. Legal standards for the child protection function, on the other hand, act both to define when government may intrude into the family and to control child rearing through coercion. Defining the appropriate scope of the child protection function is therefore necessarily related to profound questions of political and moral philosophy concerning the proper relationship of children to their family and the family to the State." Mnookin, Child Custody Adjudication: Judicial Functions in the Face of Indeterminacy, 39 Law and Contemporary Problems 226 (1975) at 265.



In our democratic and heterogenous society, there is no single "best" way to raise children. Only "dangerously faulty or insufficient" parental care, In re Karr, 66 Misc. 2d 912,323 N.Y.S. 2d 122, 127 (Family Ct., Richmond Co. 1971) has provided a sufficiently compelling basis for depriving parents of their children. This standard is embodied in State child protective laws, N.Y. Family Court Act, Article 10, defining child abuse and neglect with reference to a "minimum degree of care". F.C.A. §1012.

In Yoder v. Wisconsin, 406 U.S. 205, this court held that the mere fact that a child might be "better off" in an environment other than his parents' did not justify state interference with parental decisions. The State's interest in depriving a fit parent of the custody of his or her children has been said to be "de minimis". Stanley v. Illinois, 405 U.S. 645, 657. Thus parents have been free to control the care and custody of their children within very broad limits.

The foster parents' conception of the role of the State with respect to child rearing is very different. Their argument makes it clear that they want hearings so that they can keep foster children regardless of the willingness and ability of the children's parents to care for them (Appellees' Brief pp. 46-47).* They claim that the State can use the State operated foster care system to destroy the families it was intended to serve and to establish families out of randomly selected children and foster parents instead.

A democratic State should not have and should not

*However, like plaintiffs Goldberg and Lhotan they do not necessarily want to adopt the foster children. A. 298a-299a; State ex rel Wallace v. Lhotan, 51 A.D. 2d 252, 25 , 380 N.Y.S. 2d 250, 254. At the same time, children whose parents visit and want them are not available for adoption. S.S.L. §384-b, F.C.A. 611. Thus retention of children in foster care means continued State responsibility for child rearing.

exercise such power. It is intolerable to subject a parent to a hearing concerning her right to her child when there has been no accusation of unfitness made against the parent. Surely, the hearing cannot be required solely to permit the foster parent to go on a fishing expedition to gather information as to a natural parent's failings. The State would violate a fundamental ethic of civilized society if it took a mother's child from her, at her request, to help her sustain her family,gave her no inkling that she must solve her problem and take the child home within a specified time period, waited until the mother and the state had agreed that she was ready and fit to take the child home, and then required her to contest the custody of her child with state-compensated foster parents because one year had passed and the child may have become a "member" of a new family.

The enforced separation of parents and children by the State involves one of the most extreme applications of State power. The use of such power, unless exercised for the most compelling reasons and with strict adherence to law, has been associated only with totalitarian regimes.*

There should be affectionate ties between children and foster parents; but, the State may not use the presumed existence of such ties after one year by themselves to deprive parents of their children.** Nor would it be appropriate for the State to hold hearings to measure and compare the emotional attachments between children and parents and children and foster parents, as intimated by the district Court A.J.S. 16a.

*Perpetrators of such actions were tried and convicted for crimes against humanity at the Nurnberg War Crimes Trials. U.S.A. v. Ulrich Greifeldt, et al: Trials of War Criminals, Vol. IV., Case 8, 1949.

**James v. McLinden 341 F. SUpp. 233 (D. Conn. 1969) is beside the point: There a child had been left with a neighbor by his mother; subsequently the state tried to take the child from the neighbor. The neighbor was not a state foster parent and there was no conflict between her and the child's mother.



An essential characteristic of the fundamentally protected rights of parents to the care and custody of their children must be freedom from the power of others to compete for those rights because they too love the children or even love them more. Spence Chapin Adoption Service v. Polk, 29 N.Y. 2nd 196, 324 N.Y.S. 2nd 937, 939 (1971).* To interfere with parental rights on that basis would utterly destroy "the private realm of family life." Griswold v. Connecticut, 381 U.S. 479,495 (1965). Measurement of the private emotions of parents and children toward one another would be the ultimate invasion of privacy. It would be dangerous for the government to have such power.

The State does not have the power to distribute children of fit parents to State-selected foster parents, any more than it has the power to proscribe marriage and procreation on racial and eugenic grounds Loving v. Virginia 388 U.S. 1 (1967) Skinner v. Oklahoma 316 U.S. 535 (1942).

The family is more than random adults and children living together; it is more than warmth, although parents and children usually have warm and intense feelings for one another.

*In Bennett v. Jeffreys 40 N.Y. 2d 543, 387 N.Y.S. 2d 821 (1976) the New York Court of Appeals allowed that in "extraordinary circumstances" involving placement for 7 years, the child's attachment to a non-parent could be a factor. This would not be the case with a one year placement. In Ruth "J" v. Beaudoin __A.D.__ 389 N.Y.S. 2d 473 (App. Div. 3rd Dept. 1976), involving an 18 months placement, the Bennett exception was held to be inapplicable. Application of the "extraordinary circumstances" standard to one year cases would be unconstitutional whatever its validity in a 7 year case. In effect, that is the result foster parents seek in this action. The New York Court of Appeals has never regarded the custody standard between parents and non-parents as a matter of "local" judgment A.J.S.11a. It has always assumed that the standard was limited by constitutional decisions of this Court. See People ex rel Portnoy v. Strasser, 303 N.Y. 539,544 (1952); People ex rel Kropp v. Shepsky, 305 N.Y. 465,469 (1953); Spence-Chapin Adoption Service v. Polk, 29 N.Y. 2d 196,205 324 N.Y.S. 2d 937,944,045 (1971); Bennett v. Jeffreys, 40 N.Y. 2d 543, 387 N.Y.S. 2d 821,824,825,826 (1976).

The family is a central legal, social and moral institution, with roots in religion and natural law.* In our society, the legal and biological parent-child relationship is the social norm. Along with the relationship between man and wife it is the core family relationship. It is this relationship which this Court has found to be fundamental and protected from authoritarian interference by the government. To ignore "the biological relationship is to avoid the issue". Stanley v. Illinois, 405 U.S. 645, 652 (1972).** However, if the parent-child relationship is recognized as more "precious" and "essential" than "liberties which derive merely from shifting economic arrangements" Stanley v. Illinois, 405 U.S. 645, 651 (1972) and cases cited therein, then parents and children cannot be interchangeable like parts in a car.

For over two thousand years various "experts" have believed that the "good" society, however defined, could be created

*Goode, The Family (Prentice Hall, Inc. 1964), pp. 2-5, 19; Levy, The Rights of Parents, 1976. Brigham Young University Law Review, No. 4 p. 693; Caplow, The Loco Parent, 1976 Brigham Young University Law Review, No. 4 pp. 711-713.

**The foster parent-foster child relationship is not comparable to the natural parent-child relationship. It is not basic to our social structure nor hallowed by tradition. It is a finite, not a permanent relationship, circumscribed by the terms of the foster parents' contract authorizing the agencies to remove the child at any time. A 76a-78a. The foster parent may also terminate the relationship at any time: According to the City of New York approximately 38% of foster children transferred in one year were moved at the request of foster parents. A Parry 90a.

The foster parent has no obligation or "high duty" toward the child, Pierce v. Society of Sisters, 268 U.S. 510, 535 (1925). For biological parents, both duties and rights are inherent in the parent-child relationship. Ramos v. Montgomery 313 F. Supp. 1179, 1183 (S.D. Cal, 1970) aff'd mem. 400 U.S. 1003 (1971). Nor is the foster home a private enclave, the way the natural home is. Routine decisions must be approved by the agencies A 76a-78a. Nor is the emotional relationship between natural parents and their children and foster parents and foster children necessarily comparable. See Fanshel A 166a-167a. Indeed, the foster parents' experts concede that "under the terms of the [foster parent] agreement, the child-foster parent relationship has little likelihood of promoting the psychological parent-wanted child relationship." Beyond the Best Interest of the Child (1973) p. 25. Finally, there was no basis whatsoever in the record for assuming the relationship acquires protected status after exactly one year of foster care.



through state control of child rearing. However, this approach is antithetical to our form of government* and has been firmly rejected by this Court. In Meyer v. Nebraska, 262 U.S. 390(1923), the Court rejected the model for state control of child rearing presented in Plato's Republic as alien to our democratic values. According to Plato, family life was to be replaced by state selected parents, other than the children's own, so that "no parent is to know his child, nor any child his parent," Id.401-402. Regarding this system, the Court stated:

> Although such measures have been deliberately approved by men of great genius, their ideas touching the relation between individuals and state were wholly different from those upon which our institution rest; and it hardly will be affirmed that any legislature could impose such restrictions upon the people of a State without doing violence to both letter and spirit of the Constitution. Id. at 402

That no Court should impose such restrictions is equally clear.

## POINT II
## NEITHER THE INTEREST OF CHILDREN, FOSTER PARENTS OR THE STATE REQUIRE THAT ALL PARENTS WHO HAVE PLACED CHILDREN IN FOSTER CARE BE TREATED AS UNFIT

Appellants parents have never denied the power of the State to separate children from abusive, neglectful or abandoning parents. However, the interest of no party to this action permits a federal Court to treat legally fit parents as unfit and to strip them of all the procedural protections required by due process, and provided by State law, before parental unfitness can be established and parents and children separated.

Foster parents continue to insinuate that parents who

*[T]he makers (of the Constitution) did not specifically provide for the separation of family and state because they assumed the absence of any possible connection between the family and the federal union. Had they decided to regulate the relationship, they presumably would have stipulated that the family and the State should be kept separate on much the same grounds as in the case of religion. The government is likely to corrupt the family whenever it attempts to improve it because it has no legitimate authority to set goals for individuals." Caplow, The Loco Parent, 1976, Brigham Young University Law Review, No. 4, p. 709, 713.

place their children in foster care and struggle* to take them home are "bad" parents--neglectful strangers, unworthy of rights. This transparent effort to prejudice the Court should not succeed. There are neglectful and abusive parents with children in foster care. Appellants parents who have children in foster care as a result of voluntary foster care placement are not those parents.** Otherwise, why would N.Y.S.S.L. §384-a require such an adjudication (or another adjudication of unfitness) to support an agency refusal to discharge a child from foster care, or, provide that a voluntary placement was not a "remand or committment" under N.Y.S.S.L. 383(1).

A mother who is ill and has to be hospitalized with no one to care for her children, a mother who is blind and mistreated by her husband, a mother alone who breaks down under stress, a mother who is stranded without home or funds, is not a "bad" person or a "bad" parent. Her acceptance of help from the State, when she feels she cannot cope, makes her a concerned responsible parent. These circumstances invite compassion, not scorn and contempt. Nor do children in foster care return home to parents who are strangers. No Court has held that appellants parents failed to visit their children, N.Y.S.S.L. 384-b; F.C.A. §611. The record shows just the opposite: children going home are typically visited children whose relationship to their parents is ongoing.***

*For a description of the experience of having children in foster care, see McAdams, The Parent in the Shadows, 51 Child Welfare 51 (1972).

**Foster parents know this full well. Nevertheless they use misleading quotations. Compare footnote quoting from State Report of Robert Catalano (Appellees' Brief p. 19) with testimony of Catalano explaining it, A 114a-119a. Similarly the Jenkins/Fanshel study included 20% of Court adjudicated cases, A 178a.

***Main Brief Appellants Rodriguez, pp.48,fn.54. The Wallace case is atypical. Yet even the Wallace girls, once freed from the "controlling influence of the Lhotans" State ex rel Wallace v. Lhotan, 51 A.D. 2nd 250, 257 were able to find their way with their mother in a way that belies the notion that they were ever strangers. (See "Stone" and "Clingan" affidavits, State Appellants' Reply Brief).



Further, many children return home from foster care after a stay of one year.* Appellees cannot change these facts by underlined but unsupported assertions. (Appellees Brief, p. 34.) Significantly, the experience of Amicus, Juvenile Rights Division of the Legal Aid Society, the single largest legal representative of children in the United States (JRDLAS, p. 3) is that "most children in foster care wish to return to their parents, whenever possible." (J.R.D.L.A.S., p. 17).

The decision of the district Court created a massive barrier to the return of children to their parents, after one year of foster care, through hearings that have no legitimate purpose. As discussed in Point I, supra, the hearings are constitutionally impermissible if their purpose is to establish that the State's foster home is "better" than the child's natural home, or to compare the emotional quality of the natural and the foster relationship. If a State cannot make this determination in a hearing than it cannot hold the hearing to make the determination. On the other hand, the hearings are not necessary to prevent the return of children to abandoning or potentially neglectful parents (a proper state purpose) because New York's Child Protective Laws, N.Y.F.C.A. Article 10, N.Y.S.S.L §392, Foster Care Review, Proceedings to Terminate Parental Rights, S.S.L. §384-b, F.C.A. §611, and custody proceedings, S.S.L. §383 (3), F.C.A. §651, Article 70 N.Y.C.P.L.R. can more than sufficiently serve that purpose.

These laws already impinge severely, perhaps unconstitutionally, on the rights of parents. They insulate the rights

*Professor Fanshel's five year study showed that 37% of the children in his sample of 624 were discharged after the first year of placement, with 21% leaving during the second and third year. He concluded that many children could go home after the first year. A Fanshel 182a-183a; Fanshel, Status Changes of Children in Foster Care: Final Results of the Columbia Longitudinal Study, 55 Child Welfare 143 (1976). Subsequent reports published by Professor Fanshel for the Child Welfare Information Services, Inc. show that in New York City alone approximately 48.5% of the children returning to their parents were discharged after a stay of more than one year. See Tables annexed as Exhibits A and B.

of parents to resume caring for their children from competing claims of foster parents for only 18 months.* Since the foster care system should not encourage foster parents to prevent the return of children to their parents, the procedural mechanism available to foster parents are properly not automatic. Nevertheless, they combine with actual agency practice favoring placement, to provide powerful obstacles to the discharge of children in cases where it would be harmful to them. For while the judgments of agency workers may be in part subjective and biased, as are even judicial custody decisions,** the error is against the discharge of children. Social workers charged with the protection of children err overwhelmingly against parents through the filing of "unwarranted neglect proceedings,"***Juvenile Court Judges err similarly.****

Yet, while the hearings ordered by the District Court have no appropriate or necessary function in protecting children against unfit parents, they have the effect of stripping natural parents who are not unfit of all their procedural protections against claims of unfitness under existing New York procedures.

*Child protective proceedings are available to any one, including foster parents, at any time. N.Y.F.C.A. §1032, 1033, 1034.

**Custody decisions are"indeterminate and speculative" no matter who makes the decision. . . . While judges may be ill equipped to develop and evaluate information about the child, having some other state official decide or making various procedural adjustments (such as giving counsel to the child, providing better staff to the Court, or making the proceedings more or less formal) will not cure the root problem. The indeterminancy flows from our inability to predict accurately human behaviour and from a lack of social consensus about the values that should inform the decision. (N)either greater use of existing expertise nor better procedures will make an indeterminate question answerable for an individual case. " Mnookin, Child Custody Adjudication: Judicial Functions in the Face of Indeterminacy, 39 Law and Contemporary Problems 226 (1975) at 265.

***Brief, Group of Concerned Persons, p. 19

****Mnookin, Foster Care--In Whose Best Interest? in The Rights of Children, Harvard Educational Review 158 p. 178-179.



Whether the proceedings are pursuant to N.Y. Family Court Act, Article 10, or S.S.L. §392 Foster Care Review, or pursuant to Article 70 C.P.L.R. or F.C.A. §651, or S.S.L. §384-b and F.C.A. §611, parents are entitled to particularized notice of reasons why their children should not be returned to them, are assured of a trial type hearing in a Court of record, full rights of cross-examination and confrontation of witnesses, right to counsel, right to discovery, an evidentiary standard based at least on preponderance of evidence with the State and non-parents bearing the burden of proof, and plenary appellate review. See New York Family Court Act, Articles One, Two, Six, Ten, Eleven, particularly §§165 and 262 and New York Civil Practice Law and Rules in general and Article 70 in particular. Just as the District Court in its decision ignored the substantive rights of natural parents, so it also ignored the procedural protections to which they are entitled before the State may coercively separate them from their children. Matter of Ella B., 30 N.Y. 2nd 352, 334 N.Y.S. 2nd 133 (1972); Matter of Carla L., 45 App. Div. 2nd 375, 357 N.Y.S. 2d 987 (1st Dept. 1974); Armstrong v. Manzo, 380 U.S. 545 (1965); Stanley v. Illinois, 405 U.S. 645 (1972). Thus "Due Process" was stood on its head.

> "It has been said 'Unto everyone which hath shall be given; and from him that hath not, even that he hath, shall be taken away from him.' (Luke 19:26.) To what extend does the parable reflect the situation of mothers and children? Any legal decision relating to families with children in foster care must be scrutinized to determine whether it is in fact rendering equal justice, or whether it is further punishing families who, in addition to other burdens, face the loss of each other."*

## CONCLUSION

The decision of the District Court should be reversed.

*R-48 Affidavit of Shirley Jenkins annexed as Exhibit to Affidavit of Louise Gruner Gans.

Respectfully submitted,

MARTTIE L. THOMPSON, ESQ.
Community Action for Legal
Services, Inc.

Louise Gruner Gans
of Counsel
Attorneys for Appellants
Rodriguez, Robins, Shabazz
and Collazo
335 Broadway
New York, New York 10013
(212) 966-6600

Dated: New York, New York
March 15, 1977

EXHIBIT "A"

MARCH, 1976

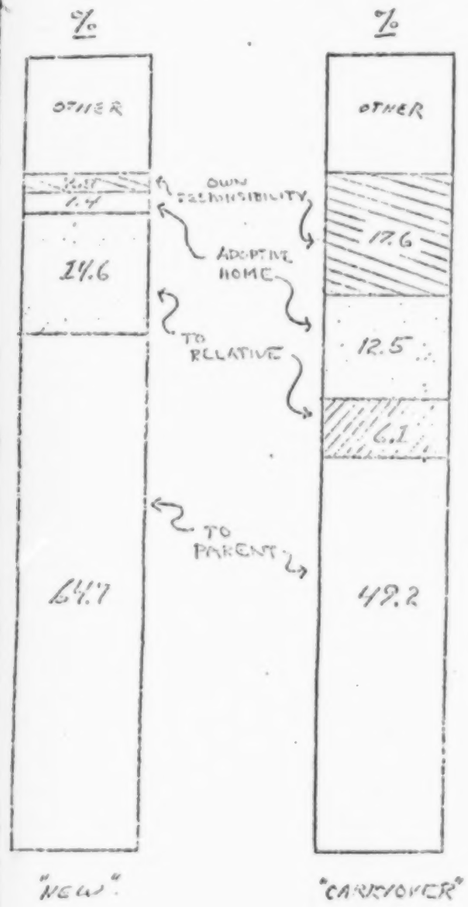
CHILD WELFARE INFORMATION SERVICES, INC.

# AMS REPORT

There is much interest in the child care community as to how children leave care -- where do they go, and is that destination consonant with the plan for the child?

CWIS data analyzed by David Fanshel and John Grundy sheds some light on these questions.

First of all, where do the children go?




The graphs* to the left indicate the discharge destinations of children discharged between June 1, 1974 and May 31, 1975.

"New" arrivals are children who entered care during the period referenced above. "Carryover" cases are those who were already in care prior to June 1, 1974.

*The display on the following page indicates (for "carry-over" cases only, during the same time period) where children went by age of child. (The chart is proportionately spaced horizontally and vertically, to indicate magnitude).*

* A detailed table supporting these graphs can be found in: Fanshel & Grundy, *Computerized Data for Children in Foster Care*, CWIS, New York, 1975, p.43.

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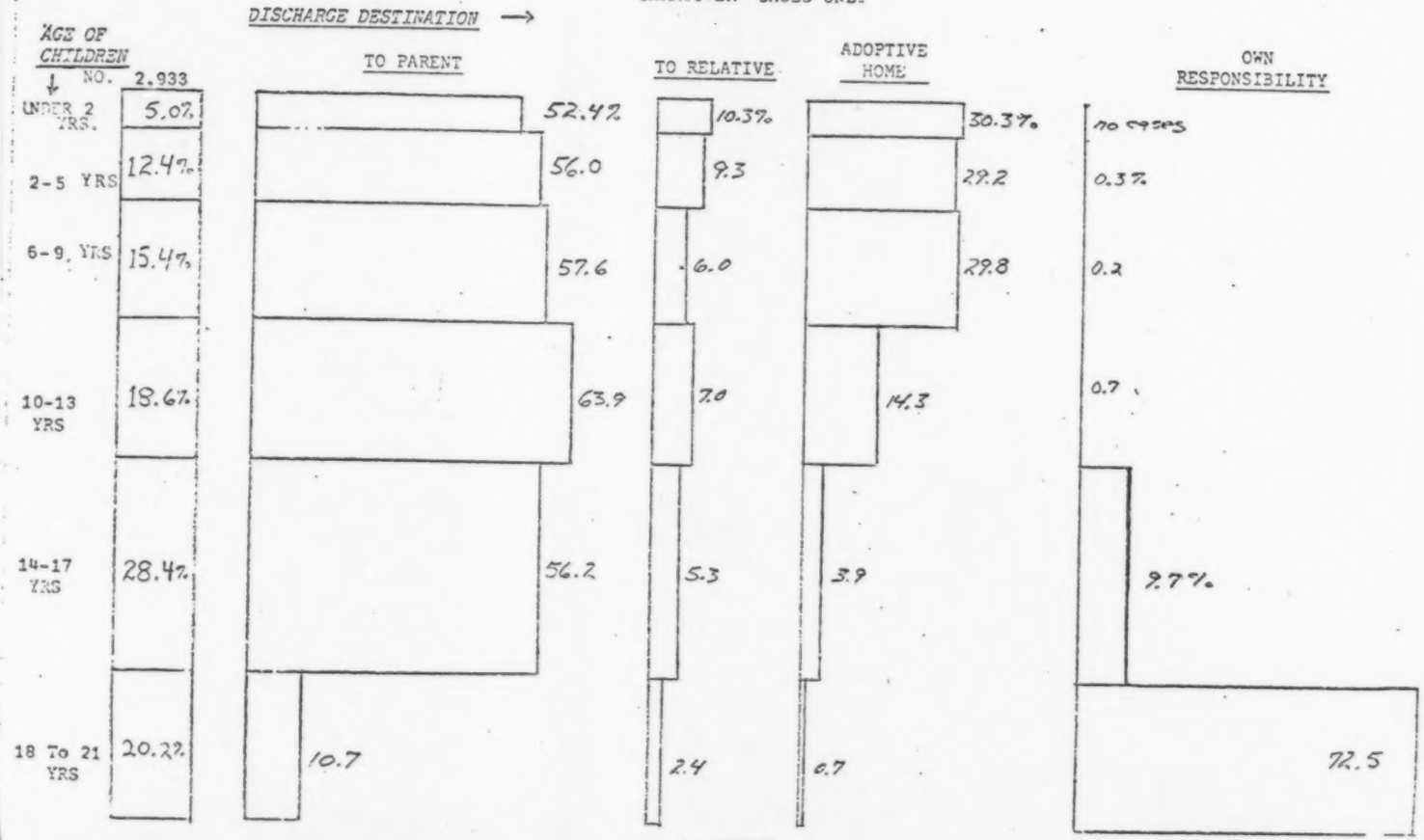
DESTINATION OF CHILDREN DISCHARGED - BY AGE
"CARRYOVER" CASES ONLY



CHILD WELFARE INFORMATION SERVICES, INC.
200 MADISON AVENUE, NEW YORK, N.Y. 10016

CWIS

COMPUTERIZED DATA FOR CHILDREN IN FOSTER CARE:

# First Analyses from a Management Information Service in New York City

DAVID FANSHEL and JOHN GRUNDY

COLUMBIA UNIVERSITY SCHOOL OF SOCIAL WORK

APPENDIX B1

Destination of Children Discharged During Period June 1, 1974 - May 31, 1975
For New Arrivals and Carry-Over Cases*

*(Percentages)*

| Destination | New Arrivals | Carry-Over Cases |
|---|---|---|
| Parent | 64.7 | 49.2 |
| Relative | 14.6 | 6.1 |
| Free Adoptive Home: Foster Home | 0.6 | 1.6 |
| Free Adoptive Home: Other | 0.7 | 2.5 |
| Subsidized Adoptive Home: Foster Home | 0.1 | 7.7 |
| Subsidized Adoptive Home: Other | 0.0 | 0.7 |
| Self (Own responsibility) | 2.8 | 17.6 |
| Adult Mental Institution | 0.0 | 0.1 |
| Child Mental Institution | 0.1 | 0.5 |
| Penal Institution | 0.4 | 0.5 |
| Job Training | 0.0 | 0.3 |
| Military | 0.0 | 1.1 |
| Other | 14.1 | 9.1 |
| Don't Know | 1.8 | 1.4 |
| No Response | 0.0 | 1.5 |
| TOTAL | 100.0 | 100.0 |
| No. of Cases | 679 | 2,742 |

*New arrivals are cases of children who entered care during the period June 1, 1974 to May 31, 1975. Carry-over cases represent children who were already in care prior to June 1, 1974.

EXHIBIT "B"

CWIS inc

# CHILD WELFARE INFORMATION SERVICES, INC.

SYSTEM LEVEL REPORTS

DECEMBER 31, 1975

PREPARED BY:
DAVID FANSHEL AND JOHN F. GRUNDY
RESEARCH AND DEMONSTRATION CENTER
COLUMBIA UNIVERSITY SCHOOL OF SOCIAL WORK
622 WEST 113TH STREET
NEW YORK, NEW YORK 10025

TO THOSE RECEIVING THE CWIS SYSTEM LEVEL REPORTS
FOR THE PERIOD ENDING DECEMBER 31, 1975

THE ATTACHED REPORT IS BASED ON DATA FROM 104 AGENCIES OR MAJOR AGENCY DIVISIONS CURRENTLY ON THE CWIS SYSTEM. CWIS NOW MAINTAINS RECORDS FOR 37457 CHILDREN. OF THESE 543 ARE CHILDREN WHO ARE NOT NEW YORK CITY CHARGES AND ARE EXCLUDED FROM SYSTEM LEVEL REPORTS. OF THE REMAINING 36914 CHILDREN 8833 HAVE BEEN DISCHARGED. DISCHARGED CHILDREN ARE INCLUDED IN THIS REPORT ONLY IN THE SECTION CONCERNING DISCHARGES AND ADMISSIONS. THE OTHER SECTIONS OF THIS REPORT INCLUDE 28081 CHILDREN CURRENTLY IN CARE OR ON SUSPENDED PAYMENT.



TABLE 53
DISCHARGE DESTINATION BY ADMISSION DATE OF CHILDREN
DISCHARGED BETWEEN 1- 1-75 AND 12-31-75
(N= 4292)

| DATE OF ADMISSION: | ADMITTED AFTER 12-31-74 | ADMITTED BEFORE 1- 1-75 |
|---|---|---|
| | % | % |
| DISCHARGE DESTINATIONS: | | |
| RETURN TO NATURAL PARENT | 70.1 | 48.1 |
| RELEASED TO RELATIVE | 13.9 | 6.1 |
| FREE ADOPT-FOSTER FAMILY | -0.0 | 2.5 |
| FREE ADOPTION-OTHER | 0.4 | 2.6 |
| SUBS.ADOPT-FOSTER FAMILY | -0.0 | 11.3 |
| SUBSIDIZED ADOPT-OTHER | -0.0 | 0.8 |
| REL. TO CHN RESPSIBILITY | 2.8 | 18.1 |
| ADULT MENTAL INSTITUTION | 0.1 | 0.2 |
| CHILD MENTAL INSTITUTION | 0.5 | 0.2 |
| PENAL/CORRECTIVE INST. | 0.2 | 0.4 |
| ENTER ADULT JOB TRAINING | -0.0 | 0.2 |
| TO ENTER MILITARY | -0.0 | 1.0 |
| OTHER | 9.8 | 7.1 |
| UNKNOWN | 1.4 | 1.1 |
| NOT REPORTED | 0.7 | 0.5 |
| TOTAL: | | |
| PERCENT | 100.0 | 100.0 |
| NUMBER OF CASES | 568 | 3304 |

A "-0.0" PERCENT INDICATES THERE ARE NO CASES IN THAT SUB-CATEG
ROWS AND COLUMNS WITH NO CASES ARE OMITTED FROM THE TABLE.
80010 I, IT EOF
REPLY Y

STATE OF NEW YORK )
) ss.:
COUNTY OF NEW YORK)

JERRY M. SAUNDERS, being duly sworn, deposes and says: deponent is not a party to the action is over 18 years of age and resides at 5085 Broadway, New York, New York.

That on the 15th day of March 1977, I served the within Reply Brief of Appellants Naomi Rodriguez, et al., upon:

Marcia Robinson Lowry, Esq.
Attorney for Appellees
New York Civil Liberties Union
84 Fifth Avenue
New York, New York 10011

Helen Buttenwieser, Esq.
Attorney for Children
575 Madison Avenue
New York, New York 10022

Maria Marcus, Esq.
Office of the Attorney General
2 World Trade Center
New York, New York 10047

Leonard Koerner, Esq.
Assistant Corporation Counsel
Municipal Building
New York, New York 10007

James Gallagher
Office of the County Attorney of Nassau County
Nassau County Executive Building
West Street
Mineola, New York 11501

Charles Schinitsky
The Legal Aid Society
Juvenile Rights Division
189 Montague Street
Brooklyn, New York 11201

Joseph Goldstein
127 Wall Street
New Haven, Conn.

Sonja Goldstein
Sachs, Sachs, Delaney and Sachs
99 Cherry Street
Milford, Conn.

Puerto Rican Legal Defense
&Education Fund, Inc.
95 Madison Avenue
New York, New York 10016

Michael Wolff
Paul Piersma
National Juvenile Law Center
St. Louis University School of Law
3701 Lindell Boulevard
St. Louis, Missouri 63108

Said service was made by depositing a true copy of same enclosed in a post-paid properly addressed wrapper in a post office under the exclusive care and custody of the United States Postal Service within the State of New York.

Sworn to before me this
15th day of March, 1977

JERRY M. SAUNDERS

Notary Public, State of New York
No. 31-7964926
Qualified in New York County
Commission Expires March 30, 1978